

AGREEMENT FOR INMATE HEALTH CARE  
SERVICES AT RIO ARRIBA COUNTY, NEW MEXICO  
Effective NOVEMBER 1, 2014

This Agreement for Inmate Health Care Services (hereinafter, the "AGREEMENT") entered into by and between the County of Rio Arriba, State of New Mexico, (hereinafter, the "COUNTY") acting by and through its duly elected Board of COUNTY Commissioners, (hereinafter the "BOARD") and Southwest Correctional Medical Group, Inc., (hereinafter, "SWCMG") a Delaware corporation.

**RECITALS**

**WHEREAS**, the COUNTY is charged by law with the responsibility for administering, managing, and supervising the health care delivery system of the Rio Arriba County Detention Center located at #2 Main Street, Building # 2, Tierra Amarilla, New Mexico 87575 (hereinafter, "JAIL"); and

**WHEREAS**, the objective of the COUNTY is to provide for the delivery of quality health care to the INMATES and DETAINEES of the JAIL (hereinafter, "JAIL POPULATION"), in accordance with applicable law; and

**WHEREAS**, the objective of the parties is to jointly operate common healthcare services at the JAIL; and

**WHEREAS**, the COUNTY has determined that contracting with SWCMG will, or is likely to, reduce health care costs, improve quality of care or access to care; and

**WHEREAS**, SWCMG is in the business of administering correctional health care services and desires to administer such services on behalf of the COUNTY to the JAIL POPULATION under the terms and conditions hereof.

**NOW THEREFORE**, in consideration of the covenants and promises hereinafter made, the parties hereto agree as follows:

**DEFINITIONS**

**CONTRACT YEAR** - The initial, and any successive, twelve (12) month period beginning with the effective date of the AGREEMENT.

**COUNTY INMATES/DETAINEES** - An INMATE/DETAINEE held under the jurisdiction of the COUNTY. COUNTY INMATES/DETAINEES may be housed in the JAIL or in another jurisdiction's correctional facility. However, the provisions of this AGREEMENT do not cover COUNTY INMATES/DETAINEES housed in another jurisdiction unless SWCMG administers health care services at the other jurisdiction's facility and is specifically set forth below.

**COVERED PERSON** - An INMATE/DETAINEE of the JAIL who is: (1) part of the JAIL's population; and (2) FIT FOR CONFINEMENT; and (3) (a) incarcerated in the JAIL; or (b) on work release status and is indigent.

**DETAINEE** -An adult or juvenile individual whose sentence has not yet been adjudicated and is held as a pre-trial detainee or other individual held in lawful custody.

**FIT FOR CONFINEMENT** - A determination made by a SWCMG authorized physician or HEALTH

**CARE STAFF**, and/or health- trained JAIL staff that an INMATE/DETAINEE is medically stable and has been medically cleared for acceptance into the JAIL. Such determination shall only be made after resolution of any injury or illness requiring immediate transportation and treatment at a hospital or similar facility.

**HEALTH CARE STAFF** -Medical, mental health and support staff provided or administered by SWCMG.

**SWCMG CHIEF MEDICAL OFFICER** - SWCMG's Chief physician who is vested with certain decision making duties under this AGREEMENT.

**INMATE** - An adult or juvenile individual who is being incarcerated for the term of their adjudicated sentence.

**NCCHC** -The National Commission on Correctional Health Care.

**SPECIALTY SERVICES** -Medical services that require physicians to be licensed in a specialty such as obstetrics, gynecology, or dermatology or other specialized field of medicine, but excluding services that are otherwise provided for in this AGREEMENT.

## ARTICLE I **HEALTH CARE SERVICES**

- 1.1 **SCOPE OF SERVICES.** SWCMG shall administer health care services and related administrative services at the JAIL according to the terms and provisions of this AGREEMENT. The costs of the various health care services shall be borne by SWCMG or the COUNTY as set forth in this Article.
- 1.2 **GENERAL HEALTH CARE SERVICES.** SWCMG will arrange and bear the cost of the following health care services:
  - 1.2.1 **HEALTH ASSESSMENT.** A health assessment of an adult COVERED PERSON shall be performed as soon as possible, but no later than fourteen (14) calendar days after the INMATE/DETAINEE's arrival at the JAIL. The health assessment shall follow current NCCHC standards.
  - 1.2.2 **SCHEDULED SICK CALL.** A qualified healthcare professional shall conduct sick calls for COVERED PERSONS on a timely basis and in a clinical setting.
- 1.3 **AMBULANCE SERVICE.** SWCMG shall arrange emergency ambulance services for COVERED PERSONS. Costs for ambulance services shall be responsibility of COUNTY, but any costs incurred by SWCMG will be billed to COUNTY as described in Exhibit B.
- 1.4 **BODY CAVITY SEARCHES/COLLECTION OF PHYSICAL EVIDENCE.** SWCMG HEALTH CARE STAFF will not perform body cavity searches, nor collect physical evidence (blood, hair, semen, saliva, etc.), except within guidelines established by the NCCHC. If SWCMG HEALTH CARE STAFF collect physical evidence, the COUNTY shall be responsible for arranging any testing and bear the cost of collection and testing the collected evidence and any associated staffing costs for HEALTH CARE STAFF to provide court related testimony. Costs incurred by SWCMG for court

testimony related to this paragraph will be periodically reconciled with the COUNTY pursuant to Paragraph 8.2.3. After collecting evidence, SWCMG HEALTH CARE STAFF shall turn the specimen over to the COUNTY or a court-designated representative for completion of chain-of-custody evidence.

- 1.5 DENTAL. SWCMG shall arrange medically necessary on-site dental services, including annual dental cleanings for inmates held for over 365 days, generally not to exceed one (1) eight (8) hour visit every month, or as needed. SWCMG shall arrange emergency dental services only if SWCMG's CHIEF MEDICAL OFFICER determines that such care is medically necessary. If the dental services cannot be rendered on-site, SWCMG shall arrange off-site dental services. Costs for off-site dental services shall be responsibility of COUNTY, but any costs incurred by SWCMG will be billed to COUNTY as described in Exhibit B.
- 1.6 DIALYSIS SERVICES - NOT COVERED. In the event that dialysis services are required for the JAIL POPULATION, SWCMG shall not be responsible for the provision or cost of such dialysis services.
- 1.7 ELECTIVE MEDICAL CARE - NOT COVERED. SWCMG shall not be responsible for the provision or cost of any elective care. Elective medical care shall be defined as crude which, if not provided, would not, in the sole opinion of SWCMG's CHIEF MEDICAL OFFICER or designee, cause the INMATE/DETAINEE'S health to deteriorate or cause harm to the INMATE/DETAINEE'S wellbeing. Decisions concerning elective medical care shall be consistent with the applicable American Medical Association (AMA) Standards.
- 1.8 HOSPITALIZATION. SWCMG will arrange hospitalization related to medical services for a COVERED PERSON who, in the opinion of the treating physician and/or SWCMG's CHIEF MEDICAL OFFICER or designee, requires hospitalization. Costs for hospitalization services shall be responsibility of COUNTY, but any costs incurred by SWCMG will be billed to COUNTY as described in Exhibit B.
- 1.9 LONG TERM CARE - NOT COVERED. In the event that a member of the JAIL POPULATION requires skilled care, custodial care or other services of a long term care facility, SWCMG shall not be responsible for the provision or cost of any such care.
- 1.10 MEDICAL EQUIPMENT OVER \$100. In the event that the Parties mutually agree that medical equipment in excess of \$100 per unit cost is required to assist in providing health care services to COVERED PERSONS under this AGREEMENT, SWCMG shall not be responsible for the cost of such medical equipment.
- 1.11 MEDICAL SUPPLIES/EQUIPMENT OF \$100 OR LESS. SWCMG shall provide medical supplies (i.e., alcohol prep pads, syringes, etc.) and equipment (i.e., thermometers, scales, etc.) required to administer the terms of the AGREEMENT, which have a unit cost of \$100 or less, but does not include office and paper supplies. Costs for such medical supplies and equipment incurred by SWCMG shall be billed to COUNTY as described in Exhibit B.
- 1.12 MEDICAL WASTE. SWCMG shall arrange for removing and properly disposing of medical waste material generated while fulfilling its duties under this AGREEMENT in accordance with all applicable state laws and OSHA-regulated standards. Costs for

removing and properly disposing of medical waste material incurred by SWCMG shall be billed to COUNTY as described in Exhibit B.

- 1.13 MENTAL HEALTH CARE. SWCMG shall arrange and manage the provision of on-site mental health services for COVERED PERSONS, which shall include intake, evaluations, referrals, medication evaluation and prescription, crisis management, suicide intervention and continuity of care. Costs incurred by SWCMG shall be billed to COUNTY as described in Exhibit B. SWCMG shall not be responsible for the provision or cost of any off- site or inpatient mental health services.
- 1.14 OFFICE EQUIPMENT - NOT COVERED. SWCMG shall not be responsible for the provision or cost of any office equipment. The COUNTY shall be responsible for providing office equipment, such as copier, fax and phone service required for the administrative operation of the medical unit.
- 1.15 OFFICE SUPPLIES. SWCMG shall be responsible for providing office supplies such as books, medical record folders, and forms as required for the administrative operations of the medical unit. Costs incurred by SWCMG shall be billed to COUNTY as described in Exhibit B.
- 1.16 PATHOLOGY/RADIOLOGY SERVICES. SWCMG shall arrange all pathology and radiology services (also referred to as laboratory and x-ray services) ordered by a SWCMG physician for COVERED PERSONS. SWCMG shall arrange on-site pathology and radiology services to the extent reasonably possible. To the extent pathology and radiology services are required and cannot be rendered on-site, SWCMG shall make appropriate arrangements for rendering offsite pathology and radiology care. SWCMG will arrange and coordinate with the COUNTY for the transportation for pathology and radiology off-site services. Costs for off-site pathology and radiology services shall be responsibility of COUNTY, but any costs incurred by SWCMG will be billed to COUNTY as described in Exhibit B.
- 1.17 PHARMACY SERVICES. SWCMG shall provide monitoring of pharmacy usage as well as a Preferred Medication List. SWCMG shall bear the cost of all prescription and non-prescription over-the-counter medications prescribed by a duly licensed SWCMG physician for a COVERED PERSON.
  - 1.17.1 GENERAL. Prescribing, dispensing, and administering of medication shall comply with all State and Federal laws and regulations and all medications shall be dispensed under the supervision of a duly authorized, appropriately licensed or certified health care provider.
  - 1.17.2 PRICING. SWCMG shall bill COUNTY for prescription and OTC pharmaceuticals as described in Exhibit B.
- 1.18 PREGNANT COVERED PERSONS. SWCMG shall arrange on-site health care services for any pregnant COVERED PERSON in accordance with NCCHC standards and this AGREEMENT, but SWCMG shall not arrange any health care services for infants. Off-site health care services for any pregnant COVERED PERSON shall be in accordance with SPECIALTY SERVICES as set forth herein in Paragraph 1.19.
- 1.19 SPECIALTY SERVICES. In the event it is determined that a COVERED PERSON requires SPECIALTY SERVICES, SWCMG shall arrange SPECIALTY SERVICES.

SWCMG's authorized physician will make such determination and refer COVERED PERSONS for SPECIALTY SERVICES when, in the physician's professional opinion, it is deemed medically necessary. SWCMG's authorized personnel will make a recommendation and obtain approval from the COUNTY for SPECIALTY SERVICES prior to making arrangements for SPECIALTY SERVICES. SWCMG shall arrange on-site SPECIALTY SERVICES to the extent reasonably possible. To the extent SPECIALTY SERVICES are required and cannot be rendered on-site, SWCMG shall make appropriate off-site arrangements for rendering off-site care. In the event that SPECIALTY SERVICES are rendered off-site but do not require hospitalization, SWCMG will arrange only if the SWCMG CHIEF MEDICAL OFFICER or designee approves off-site SPECIALTY SERVICES. Costs for off-site specialty services shall be responsibility of COUNTY, but any costs incurred by SWCMG will be billed to COUNTY as described in Exhibit B.

- 1.20 VISION CARE -NOT COVERED. In the event that vision services are required for the JAIL POPULATION, SWCMG shall not be responsible for the provision or cost of such vision services.

## ARTICLE II **HEALTH CARE STAFF**

- 2.1 STAFFING HOURS. SWCMG shall provide or arrange for the provision of HEALTH CARE STAFF necessary to render the health care services contemplated in Article I as set forth in the staffing plan set forth in Exhibit A, attached hereto and made a part hereof. SWCMG reserves the right to assign the staff in Exhibit A to shift coverage as necessary based on operational needs to provide the health care services under this AGREEMENT.
- 2.1.1 Additional hours may be provided if mutually agreed upon by both parties in writing, with at least 24 hours advanced notice.
- 2.1.2 SWCMG shall provide or arrange for the provision of an on-call Physician and/or Nurse Practitioner available by telephone or pager, 24 hours per day and 7 days per week.
- 2.1.3 SWCMG's Health Services Administrator, Regional Director of Clinical Services and a mental health practitioner will be available by telephone or pager 24 hours per day and 7 days per week.
- 2.1.4 SWCMG shall make reasonable efforts to supply the staffing levels contained in this section, however, failure to continuously supply all of the required staffing due to labor market demands or other factors outside the control of SWCMG, after such reasonable efforts have been made, shall not constitute a breach of this AGREEMENT.
- 2.2 STAFFING LEVELS. Based on actual staffing needs as affected by medical emergencies, riots, increased or decreased INMATE/DETAINEE population, and other unforeseen circumstances, certain increases or decreases in staffing requirements may be agreed to by the COUNTY and SWCMG. Such agreements shall be in writing between the parties unless an emergency situation warrants a verbal agreement, which shall be subsequently documented in writing.

- 2.3 STAFF SCREENING. The COUNTY shall screen SWCMG's proposed HEALTH CARE STAFF, employees, agents and/or subcontractors providing services at the JAIL to ensure they do not constitute a security risk. The COUNTY shall have final approval, which shall not be unreasonably withheld, of SWCMG's HEALTH CARE STAFF, employees, agents and/or subcontractors, related to security/background clearance.
- 2.4 SATISFACTION WITH HEALTH CARE STAFF. In recognition of the sensitive nature of correctional facility operations, if the COUNTY becomes dissatisfied with any member of the HEALTH CARE STAFF, the COUNTY shall provide SWCMG written notice of such dissatisfaction and the reasons therefore. Following receipt of such notice, SWCMG shall use commercially reasonable efforts to resolve the dissatisfaction. If the problem is not resolved to the satisfaction of the COUNTY within ten (10) business days following SWCMG's receipt of the notice, SWCMG shall remove the individual from providing services at the JAIL within a reasonable time frame considering the effects of such removal on SWCMG's ability to deliver health care services and recruitment/hiring of an acceptable replacement. The COUNTY reserves the right to revoke the security clearance of any HEALTH CARE STAFF at any time.
- 2.5 BILLING FOR HEALTH CARE STAFF. SWCMG will bill for HEALTH CARE STAFF monthly as described in Exhibit B.
- 2.6 TELE-MEDICINE AND TELE-PSYCHIATRY SERVICES. SWCMG will provide telemedicine supervision, management and oversight by a Family Nurse Practitioner (FNP), and tele-psychiatry patient care and medication management by a Psychiatric Nurse Practitioner. SWCMG will be responsible for installing and maintaining telemedicine equipment necessary to deliver telemedicine and tele-psychiatric services at no additional cost to COUNTY. SWCMG will bill for telemedicine and tele-psychiatry services as described in Exhibit B.

### **ARTICLE III** **ADMINISTRATIVE SERVICES**

- 3.1 UTILIZATION MANAGEMENT. SWCMG shall provide utilization management services and administer medical claims processing for the offsite medical services/pharmacy services administered by SWCMG, as set forth in Article I, on behalf of the COUNTY. SWCMG will follow applicable state laws and make reasonable efforts to obtain provider discounts and will keep the COUNTY apprised of its utilization management practices.
- 3.2 HEALTH AND MENTAL HEALTH EDUCATION AND TRAINING. SWCMG shall conduct an ongoing health and mental health education and training program for the Deputies and Jailers in accordance with the needs mutually established by the COUNTY and SWCMG. Training shall be provided by methods and intervals determined by SWCMG.
- 3.3 QUARTERLY REPORTS. As requested by the COUNTY, SWCMG shall submit quarterly health care reports concerning the overall operation of the health care services program rendered pursuant to this AGREEMENT and the general health of the JAIL POPULATION.

- 3.4 QUARTERLY MEETINGS. As requested by the COUNTY, SWCMG shall meet quarterly, or as soon thereafter as possible, with the COUNTY, or designee, concerning health care services within the JAIL and any proposed changes in health-related procedures or other matters, which both parties deem necessary.
- 3.5 MEDICAL RECORDS MANAGEMENT. SWCMG shall provide the following medical records management services:
- 3.5.1 MEDICAL RECORDS. SWCMG HEALTH CARE STAFF shall maintain, cause or require the maintenance of complete and accurate medical records for COVERED PERSONS who have received health care services. Medical records shall be kept separate from COVERED PERSON'S confinement records. A complete copy of the individual medical record shall be available to accompany each COVERED PERSON who is transferred from the JAIL to another location for off-site services or transferred to another institution. SWCMG will keep medical records confidential and shall not release any information contained in any medical record except as required by published JAIL policies, by a court order or by applicable law. Upon termination of this AGREEMENT, all medical records shall be delivered to and remain with the COUNTY, as property of the COUNTY.
- 3.5.2 COMPLIANCE WITH LAWS. Each medical record shall be maintained in accordance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and any other applicable state or federal policy statute or regulation.
- 3.5.3 RECORDS AVAILABILITY. As needed to administer the terms of this AGREEMENT, SWCMG shall make available to the COUNTY, unless otherwise specifically prohibited, at the COUNTY's request, all records, documents and other papers relating to the direct delivery of health care services to the JAIL POPULATION hereunder.
- 3.6 ELECTRONIC MEDICAL RECORDS SYSTEM. SWCMG shall implement an electronic medical records (EMR) system, and will be responsible for all costs associated with its installation, operation and upkeep of the system for the term of this agreement, including any extensions. COUNTY shall make available to SWCMG its network and internet access to operate the EMR. SWCMG will begin implementation as soon as practical. Upon termination of this AGREEMENT, SWCMG will provide COUNTY with a data file including all electronic medical records in its possession. SWCMG shall bill COUNTY monthly for the EMR system as described in EXHIBIT B.

#### ARTICLE IV **PERSONS COVERED UNDER THIS AGREEMENT**

- 4.0 GENERAL. Except as otherwise provided in this AGREEMENT, SWCMG shall only be required to arrange for health care services under this AGREEMENT to be provided to COVERED PERSONS.
- 4.1 EMERGENCY MEDICAL CARE FOR JAIL EMPLOYEES AND VISITORS. SWCMG shall arrange for on-site first response emergency medical care as required for

JAIL employees, contractors and visitors to the JAIL. The medical treatment shall be limited to the extent reasonably necessary to stabilize and facilitate the individual's referral to a medical facility or personal physician.

- 4.2 RELEASE FROM CUSTODY. The COUNTY acknowledges and agrees that SWCMG is responsible for the payment of costs associated with services rendered to COVERED PERSONS as set forth in this AGREEMENT only when such persons remain in the custody of, or under the jurisdiction of, the JAIL. In no event shall SWCMG be responsible for payment of any costs associated with any services rendered to any individual when said individual is released from the custody of, or no longer under the jurisdiction of, the JAIL including, but not limited to, releasees, parolees and escapees.
- 4.3 TUBERCULINE TESTING AND HEPATITIS VACCINATIONS. SWCMG will provide skin tuberculin testing for SWCMG and JAIL staff upon hire and on an annual basis, and will provide hepatitis vaccinations for SWCMG and JAIL staff upon hire. Supplies and serum shall be billed to COUNTY as described in Sections 1.11 and 1.17.

#### **ARTICLE V** **PERSONS NOT COVERED OR PARTIALLY COVERED UNDER THIS AGREEMENT**

- 5.1 COUNTY INMATES/DETAINEES HOUSED IN OTHER JURISDICTIONS OR OUTSIDE THE JAIL. SWCMG shall not be responsible for arranging the medical care or treatment for COUNTY INMATES/DETAINEES housed in other counties or jurisdictions. The COUNTY or other agency with legal responsibility for the medical care of such persons shall be responsible for all medical expenses associated with the care and treatment of COUNTY INMATES/DETAINEES removed from the JAIL, including, but not limited to the services listed in Article I of this AGREEMENT and any other health care related expenses associated with said INMATES/DETAINEES. SWCMG shall not be responsible for arranging the medical care or treatment for COUNTY INMATES/DETAINEES housed outside the JAIL (i.e. non-indigent work release INMATES/DETAINEES or INMATES/DETAINEES on home confinement).
- 5.2 INJURIES PRIOR TO INCARCERATION, FIT FOR CONFINEMENT AND ESCAPED INMATES/DETAINEES. SWCMG shall not be responsible for the cost of providing off-site medical care for injuries incurred by an arrested person prior to incarceration at the JAIL or during an escape or escape attempt, including, but not limited to, medical services provided to any arrested person prior to the person's booking and confinement in the JAIL. In addition, SWCMG shall not be responsible for the cost of any medical treatment or health care services necessary to medically stabilize any arrested person presented at intake by an arresting agency with a life threatening injury or illness or in immediate need of emergency medical care. SWCMG shall provide such care as is medically necessary until the arrested person can be transported to a medical care facility by the arresting agency or their designee. SWCMG shall not charge an additional fee simply to examine an individual to determine if he is suitably FIT FOR CONFINEMENT.

#### **ARTICLE VI** **COST OF SERVICES NOT COVERED UNDER THIS AGREEMENT**

- 6.1 SERVICES NOT LISTED. Both parties understand and agree that there will be costs

incurred for health care related services as outlined in Articles I, II and III above. SWCMG shall not be responsible for any expenses not specifically covered under this AGREEMENT. In the event that any of the health care services not covered by SWCMG under this AGREEMENT or any services that are not listed within this AGREEMENT, are required for a member of the JAIL POPULATION as a result of the medical judgment of a physician or SWCMG authorized personnel, SWCMG shall not be responsible for arranging such services and the cost of such services shall be billed directly to the COUNTY.

- 6.2 SERVICES BEYOND THE SCOPE OF THIS AGREEMENT. Both parties understand and agree that there are certain occurrences, both beyond the control and within the control of the parties, that may result in health care expenses which are outside the scope of the normal operation of a correctional facility and, therefore, outside the contemplated scope of services under this AGREEMENT. While both parties will act in good faith and endeavor to reduce the possibility of such occurrences, in the unlikely event of an occurrence such as an Act of God, riot, explosion, fire, food poisoning, epidemic illness outbreak or any other catastrophic event, or an event caused by the action or inaction of the COUNTY or their employees, agents or contractors, which results in medical care for the JAIL POPULATION, JAIL staff, visitors, or contractors, SWCMG shall not be responsible for costs attributable to such catastrophic event. Notwithstanding the above, SWCMG shall be responsible for medical costs under this AGREEMENT associated with such an event only if such an event was caused solely by SWCMG.

## ARTICLE VII **COUNTY'S DUTIES AND OBLIGATIONS**

- 7.1 COMPLIANCE WITH HIPAA/STATE HEALTH INFORMATION PRIVACY LAWS. The COUNTY, JAIL, and their employees, agents and subcontractors shall comply with the Health Insurance Portability and Accountability Act of 1996 (hereinafter "HIPAA") and any State health information privacy laws, to the extent they are applicable. The COUNTY shall implement policies and/or procedures in compliance with such laws.
- 7.2 COMPREHENSIVE MEDICAL/MENTAL HEALTH CARE. SWCMG shall identify to the COUNTY those members of the JAIL POPULATION with medical or mental health conditions which may be worsened as a result of being incarcerated at the JAIL or which may require extensive care while incarcerated. After review of the circumstances, and when security risks permit, the COUNTY shall make every effort to have such an INMATE/DETAINEE released, transferred or otherwise removed from the correctional setting.
- 7.3 RECORD ACCESS. During the term of this AGREEMENT, and for a reasonable time following the termination of this AGREEMENT, the COUNTY shall provide SWCMG, at SWCMG's request, the COUNTY and/or JAIL's records (including medical records) relating to the provision of health care services to the JAIL POPULATION, including records maintained by hospitals, and other outside health care providers involved in the care or treatment of the JAIL POPULATION (to the extent the COUNTY or JAIL has control of, or access to, such records). SWCMG may request such records in connection with the investigation of, or defense of, any claim by a third party related to SWCMG's conduct or to prosecute a claim against a third party. Any such information provided by

the COUNTY to SWCMG that the COUNTY considers confidential shall be kept confidential by SWCMG and shall not, except as may be required by law, be distributed to any third party without prior written approval by the COUNTY.

- 7.4 USE OF INMATES/DETAINEES IN THE PROVISION OF HEALTH CARE SERVICES. INMATES/DETAINEES of the JAIL shall not be employed or otherwise engaged or utilized by either SWCMG or the COUNTY in rendering any health care services to the JAIL POPULATION, provided however, that INMATES/DETAINEES may be used in positions not involving the rendering of health care services directly to the JAIL POPULATION and not involving access to JAIL POPULATION records in accordance with NCCHC standards.

7.5 SECURITY OF THE JAIL AND SWCMG. SWCMG and the COUNTY understand that adequate security services are necessary for the safety of the agents, employees, and subcontractors of SWCMG, as well as for the security of the JAIL POPULATION and COUNTY's staff, consistent with a correctional setting. The COUNTY shall provide security sufficient to enable SWCMG, its HEALTH CARE STAFF, employees, agents and/or subcontractors to safely provide the health care services described in this AGREEMENT. SWCMG, its HEALTH CARE STAFF, employees, agents and/or subcontractors shall follow all security procedures of the COUNTY while at the JAIL or other premises under the COUNTY's direction or control. However, any SWCMG HEALTH CARE STAFF, employee, agent and/or subcontractor may, at any time, refuse to provide any service required under this AGREEMENT if such person reasonably feels that the current safety services are insufficient. SWCMG shall not be liable for any loss or damages resulting from SWCMG's HEALTH CARE STAFF, employees, agents and/or subcontractors failure to provide medical services due to insufficient security services.

- 7.6 COUNTY'S POLICIES AND PROCEDURES. SWCMG, its HEALTH CARE STAFF, employees, agents and/or subcontractors shall operate within the requirements of the COUNTY's posted security Policies and Procedures, which impact the provision of medical services.

- 7.6.1 A complete set of said Policies and Procedures shall be maintained by the COUNTY and made available for inspection by SWCMG at the JAIL, and SWCMG may make a reasonable number of copies of any specific section(s) it wishes using the COUNTY's photocopy equipment and paper.
- 7.6.2 Any Policy or Procedure that may impact the provision of health care services to the JAIL POPULATION, which has not been made available to SWCMG, shall not be enforceable against SWCMG unless otherwise agreed upon by both parties.
- 7.6.3 Any modification of the posted Policies and Procedures shall be timely provided to SWCMG. SWCMG, its HEALTH CARE STAFF, employees, agents and/or subcontractors shall operate within the requirement of a modified Policy or Procedure after such modification has been made available to SWCMG.
- 7.6.4 If any of the COUNTY's Policies and Procedures specifically relate to the delivery of medical services, the COUNTY's representative and SWCMG shall review the COUNTY's Policies and Procedures and modify or remove those provisions that conflict with SWCMG's Jail Health Care Policies and

Procedures.

- 7.7 DAMAGE TO EQUIPMENT. SWCMG shall not be liable for loss of or damage to equipment and supplies of SWCMG, its agents, employees or subcontractors if such loss or damage was caused by the sole negligence of the COUNTY's employees.
- 7.8 SECURE TRANSPORTATION. The COUNTY shall provide security as necessary and appropriate in connection with the transportation of a member of the JAIL POPULATION to and from off-site services including, but not limited to, SPECIALTY SERVICES, hospitalization, pathology and radiology services as requested by SWCMG. SWCMG shall coordinate with the COUNTY for transportation to and from the off-site services provider or hospital.

---

- 7.9 OFFICE EQUIPMENT AND SUPPLIES. The COUNTY shall provide use of COUNTY-owned office equipment, supplies and all necessary utilities (including telephone and fax line service) in place at the JAIL health care facilities except as otherwise set forth in Paragraphs 1.13 and 1.14. At the termination of this AGREEMENT, SWCMG shall return to the COUNTY possession and control of all COUNTY-owned medical and office equipment. At such time, the office equipment shall be in good working order, reasonable wear and tear excepted.
- 7.10 NON-MEDICAL CARE OF JAIL POPULATION. It is understood that the COUNTY shall provide for all the non-medical personal needs and services of the JAIL POPULATION as required by law. SWCMG shall not be responsible for providing, or liable for failing to provide, non-medical services to the JAIL POPULATION including, but not limited to, daily housekeeping services, dietary services, building maintenance services, personal hygiene supplies and services and linen supplies.
- 7.11 JAIL POPULATION INFORMATION. In order to assist SWCMG in providing the best possible health care services to COVERED PERSONS, the COUNTY shall provide, as needed, information pertaining to the COVERED PERSON that SWCMG and the COUNTY mutually identify as reasonable and necessary for SWCMG to adequately perform its obligations under this AGREEMENT.

**ARTICLE VIII**  
**MANAGEMENT FEE**

- 8.1 MONTHLY MANAGEMENT FEES. COUNTY shall pay SWCMG a monthly management fee under this AGREEMENT as described in Exhibit B.

**ARTICLE IX**  
**TERM AND TERMINATION**

- 9.1 TERM. The term of this AGREEMENT shall be one (1) year from MONTH, DAY, 2014 at 12:01 a.m. through MONTH, DAY, 2015 at 11:59 p.m. This AGREEMENT shall automatically renew for additional one-year periods on July 1<sup>st</sup> of each subsequent year with mutually agreed upon increases, unless this AGREEMENT is terminated or notice of termination is given, as set forth in this Article.

9.1.1 RENEWAL. Upon each subsequent renewal of this AGREEMENT pursuant to Paragraph 9.1, the parties have agreed to an increase of CPI but not to exceed 4.0% of the annual amount as defined in Paragraph 9.1.1.1.

9.1.1.1 CPI INCREASES. A CPI increase shall be calculated by multiplying the annual amount of the previous year by a fraction, the numerator of which is the Price Index (as defined below) for the month which is four months immediately preceding the AGREEMENT renewal date, and the denominator of which is the Price Index for the same month for the year immediately preceding the AGREEMENT renewal date. However, the annual amount due for any year will not be less than the annual amount for the prior year. The "Price Index" is defined as the Consumer Price Index - All Urban Consumers, U.S. City Average, Medical Care Services (1982-84=100), published by the Bureau of Labor Statistics of the U.S. Department of Labor.

9.2 TERMINATION FOR LACK OF APPROPRIATIONS. It is understood and agreed that this AGREEMENT shall be subject to annual appropriations by the BOARD of the COUNTY.

9.2.1 Recognizing that termination for lack of appropriations may entail substantial costs for SWCMG, the COUNTY shall act in good faith and make every effort to give SWCMG reasonable advance notice of any potential problem with funding or appropriations.

9.2.2 If future funds are not appropriated for this AGREEMENT, and upon exhaustion of existing funding, the COUNTY may terminate this AGREEMENT without penalty or liability, by providing a minimum of thirty (30) days advance written notice to SWCMG.

9.3 TERMINATION DUE TO SWCMG'S OPERATIONS. The COUNTY reserves the right to terminate this AGREEMENT immediately upon written notification to SWCMG in the event that SWCMG discontinues or abandons operations, is adjudged bankrupt or is reorganized under any bankruptcy law, or fails to keep in force any required insurance policies. Both parties agree that termination under this provision will be considered without cause.

9.4 TERMINATION FOR CAUSE. The AGREEMENT may be terminated for cause under the following provisions:

9.4.1 TERMINATION BY SWCMG. Failure of the COUNTY to comply with any provision of this AGREEMENT shall be considered grounds for termination of this AGREEMENT by SWCMG upon sixty (60) days advance written notice to the COUNTY specifying the termination effective date and identifying the "basis for termination." The COUNTY shall pay for services rendered up to the date of termination of the AGREEMENT. Upon receipt of the written notice, the COUNTY shall have ten (10) days to provide a written response to SWCMG. If the COUNTY provides a written response to SWCMG that provides an adequate explanation for the "basis for termination" and the COUNTY cures the "basis for termination" to the satisfaction of SWCMG, the sixty (60) day notice shall become null and void and this AGREEMENT will remain in full force and effect. Termination under this provision shall be

without penalty to SWCMG.

- 9.4.2 TERMINATION BY COUNTY. Failure of SWCMG to comply with any provision of this AGREEMENT shall be considered grounds for termination of this AGREEMENT by the COUNTY who shall provide sixty (60) days advanced written notice specifying the termination effective date and identifying the "basis for termination." The COUNTY shall pay for services rendered up to the date of termination of the AGREEMENT. Upon receipt of the written notice SWCMG shall have ten (10) days to provide a written response to the COUNTY. If SWCMG provides a written response to the COUNTY that provides an adequate explanation for the "basis of termination," or cures the "basis for termination" to the satisfaction of the COUNTY, the sixty (60) day notice shall become null and void and this contract will remain in full force and effect. Termination under this provision shall be without penalty to the COUNTY.
- 9.5 TERMINATION WITHOUT CAUSE. Notwithstanding anything to the contrary contained in this AGREEMENT, the COUNTY or SWCMG may, without prejudice to any other rights it may have, terminate this AGREEMENT for their convenience and without cause by giving ninety (90) days advance written notice to the other party.
- 9.5 COMPENSATION UPON TERMINATION. If any of the above termination clauses are exercised by any of the parties to this AGREEMENT, the COUNTY shall pay SWCMG for all services rendered by SWCMG up to the date of termination of the AGREEMENT regardless of the COUNTY's failure to appropriate funds.
- 9.6 PROPERTY DISPOSITION UPON TERMINATION. Upon termination of this AGREEMENT, SWCMG shall be allowed to remove from the JAIL any stock medications or supplies purchased by SWCMG that have not been used at the time of termination. SWCMG shall also be allowed to remove its property from the JAIL including its proprietary Policies and Procedures, Manuals, Training Material, and Forms and COUNTY agrees to maintain as confidential all SWCMG materials, documents or reports marked as confidential or proprietary.

## ARTICLE X **LIABILITY AND RISK MANAGEMENT**

- 10.1 INSURANCE COVERAGE. SWCMG shall, at its sole cost and expense, procure and maintain during the term of this AGREEMENT, the following coverage and limits of insurance:
- 10.1.1 MEDICAL MALPRACTICE/PROFESSIONAL LIABILITY. Medical Malpractice/Professional Liability insurance in an amount not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate.
- 10.1.2 COMPREHENSIVE GENERAL LIABILITY. Comprehensive General Liability insurance in an amount not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate.
- 10.1.3 WORKER'S COMPENSATION. Worker's Compensation coverage as required by applicable state law.

- 10.2 ENDORSEMENTS. The Comprehensive General Liability policy shall contain additional endorsements naming the JAIL as an additional insured with respect to liabilities arising out of the performance of services under this AGREEMENT.
- 10.3 PROOF OF INSURANCE. SWCMG shall provide the COUNTY proof of professional liability or medical malpractice coverage for SWCMG's HEALTH CARE STAFF, employees, agents and subcontractors, for the term services are provided under this AGREEMENT. SWCMG shall promptly notify the COUNTY, in writing, of each change in coverage, reduction in policy amounts or cancellation of insurance coverage. If SWCMG fails to provide proof of adequate insurance within a reasonable time under the circumstances, then the COUNTY shall be entitled to terminate this AGREEMENT without penalty to the COUNTY pursuant to the terms of Article IX.
- 
- 10.4 INDEMNIFICATION. SWCMG agrees to indemnify and hold harmless the COUNTY, its officials, agents, and employees from and against any and all claims, actions, lawsuits, damages, judgments or liabilities of any kind whatsoever caused by, based upon or arising out of any act, conduct, misconduct or omission of SWCMG, its agents, employees, or independent contractors in connection with the performance or non-performance of its duties under this AGREEMENT. The COUNTY will be responsible for claims, actions, lawsuits, damages, judgments or liabilities of any kind whatsoever caused by, based upon or arising out of any act, conduct, misconduct or omission of its agents or employees in the performance of this AGREEMENT. The COUNTY agrees to promptly notify SWCMG in writing of any incident, claim or lawsuit of which they become aware and shall fully cooperate in the defense of such claim. The COUNTY agrees that SWCMG's indemnification and defense obligations do not apply for any costs or expenses, including attorney's fees or settlements, incurred or effected prior to written notice to SWCMG as set forth above. Upon written notice of claim, SWCMG shall take all steps necessary to promptly defend and protect the COUNTY from an indemnified claim, including retention of defense counsel, and SWCMG shall retain sole control of the defense while the action is pending, to the extent allowed by law.
- 10.5 HIPAA. SWCMG, the COUNTY, JAIL, and their employees, agents and subcontractors shall fully comply with, and shall implement all necessary policies and/or procedures in order to comply with, the requirements of HIPAA as it applies to the services provided under this AGREEMENT. The COUNTY, JAIL, and their employees and agents shall indemnify and hold harmless SWCMG from and against any claims of any kind made as a result of alleged or actual violations of HIPAA by the COUNTY, and their employees, agents and subcontractors, unless such claims are proven to be caused by the sole negligence or willful misconduct of SWCMG.

## ARTICLE XI MISCELLANEOUS

- 11.2 INDEPENDENT CONTRACTOR STATUS. It is mutually understood and agreed, and it is the intent of the parties hereto that an independent contractor relationship be and is hereby established under the terms and conditions of this AGREEMENT. Nothing in this AGREEMENT shall be construed to create an agency relationship, an employer/employee relationship, a joint venture relationship, or any other relationship allowing the COUNTY to exercise control or direction over the manner or methods by which SWCMG, its employees, agents or subcontractors perform hereunder, or

SWCMG to exercise control or direction over the manner or methods by which the COUNTY, and their employees, agents or subcontractors perform hereunder, other than as provided in this AGREEMENT.

- 11.3 SUBCONTRACTING. In performing its obligations under the AGREEMENT, it is understood that SWCMG is not licensed or otherwise authorized to engage in any activity that may be construed or deemed to constitute the practice of medicine, dentistry, optometry, or other professional healthcare service requiring licensure or other authorization under state law. To comply with these requirements SWCMG may engage physicians or other clinicians as independent contractors ("Contract Professionals"), rather than employees, in order to supply the clinical services required under this AGREEMENT. SWCMG shall engage Contract Professionals that meet the applicable professional licensing requirements and SWCMG shall exercise administrative supervision over such Contract Professionals as necessary to insure the fulfillment of the obligations contained in this AGREEMENT. Contract Professionals shall provide clinical services under this AGREEMENT in a manner reasonably consistent with the independent clinical judgment that the Contract Professional is required to exercise. It is further understood that SWCMG may subcontract for specialized services such as pharmacy, medical waste, medical supplies and other services or supplies which it is required to provide under this AGREEMENT.
- 11.4 AGENCY. For purposes of asserting any statutory rights afforded to the COUNTY or the JAIL to pay providers for medical services at certain reduced rates, COUNTY designates SWCMG as their agent to assert such rights and privileges.
- 11.5 EQUAL EMPLOYMENT OPPORTUNITY. SWCMG will not discriminate against any employee or applicant for employment because of race, color, religion, sex, ancestry, national origin, place of birth, marital status, sexual orientation, age or handicap unrelated to a bona fide occupational qualification of the position or because of status as a disabled veteran or Vietnam-Era veteran. SWCMG will distribute copies of its commitment not to discriminate to all persons who participate in recruitment, screening, referral and selection of job applicants, and to prospective job applicants.
- 11.6 WAIVER OF BREACH. The waiver of either party of a breach or violation of any provision of this AGREEMENT shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof.
- 11.7 OTHER CONTRACTS AND THIRD-PARTY BENEFICIARIES. The parties acknowledge that SWCMG is neither bound by or aware of any other existing contracts to which the COUNTY is a party and which relate to the providing of health care to INMATES/DETAINEES at the JAIL. The parties agree that they have not entered into this AGREEMENT for the benefit of any third person or persons, and it is their express intention that this AGREEMENT is for their respective benefits only and not for the benefits of others who might otherwise be deemed to constitute third-party beneficiaries thereof.
- 11.8 FORCE MAJEURE. In case performance of any terms or provisions hereof shall be delayed or prevented because of compliance with any law, decree or order of any governmental agency or authority of local, State or Federal governments or because of dots, war, terrorism, explosions, acts of civil or military authority, acts of public enemy, public disturbances, lack of adequate security escorts, strikes, lockouts, differences with workers, earthquakes, fires, floods, Acts of God or any other reason whatsoever which is

not reasonably within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent; the party so suffering may, at its option, suspend, without liability, the performance of its obligations hereunder during the period such cause continues.

11.9 **ASSIGNMENT.** Except as otherwise provided herein, no party to this AGREEMENT may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other parties; provided however, that SWCMG may assign its rights or delegate its duties to an affiliate of SWCMG, or in connection with the sale of all or substantially all of the stock, assets or business of SWCMG, without the prior written consent of the other parties. Any unauthorized attempted assignment shall be null and void and of no force or effect.

---

11.10 **NOTICES.** Any notice of termination, requests, demands or other communications under this AGREEMENT shall be in writing and shall be deemed delivered: (a) when delivered in person to a representative the parties listed below; (b) upon receipt when mailed by overnight carrier service, mailed by first-class certified or registered mail, return receipt requested, addressed to the party at the address below; or (c) upon confirmation of receipt if sent by facsimile to the fax number of the party listed below:

If for SWCMG:

Southwest Correctional Medical Group, Inc.  
Chief Executive Officer  
2511 Garden Road, Suite A160  
Monterey, CA 93940  
Fax: (831) 649-8286

If for COUNTY:

Rio Arriba County Detention Center  
Director  
#2 Main Street, Building # 2,  
Tierra Amarilla, New Mexico 87575  
Fax: \_\_\_\_\_

Such address or facsimile number may be changed from time to time by either party by providing written notice as provided above.

11.11 **GOVERNING LAW.** This AGREEMENT shall be governed by and construed in accordance with the laws of the State of New Mexico without regard to the conflicts of laws or rules of any jurisdiction.

11.12 **EXECUTION AUTHORITY.** By their signature below, each signatory individual certifies that they are the properly authorized agent or officer of the applicable party hereto and have the requisite authority necessary to execute this Agreement on behalf of such party, and each party hereby certifies to the other than any resolutions necessary to create such authority have been duly passed and are now in full force and effect.

11.13 **SURVIVAL.** The following provisions will survive any termination or expiration of the AGREEMENT: Article VIII, Article IX and Article X.

11.14 **COUNTERPARTS.** This AGREEMENT may be executed in several counterparts, each of which shall be considered an original and all of which shall constitute but one and the same instrument.

11.15 **TITLES OF PARAGRAPHS.** Titles of paragraphs are inserted solely for convenience of reference and shall not be deemed to limit, expand or otherwise affect the provisions to which they relate.

- 11.16 **SEVERABILITY.** In the event that any one or more provisions of this AGREEMENT shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this AGREEMENT and this AGREEMENT shall be construed and enforced as if such invalid, illegal or unenforceable provision had never been contained herein.
- 11.17 **ENTIRE AGREEMENT.** This AGREEMENT constitutes the entire agreement of the parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions and agreements that have been made in connection with the subject matter hereof. This AGREEMENT may be amended at any time, but only with the written consent of all parties.

---

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed as their official act by their respective representative, each of whom is duly authorized to execute the same.

**AGREED TO AND ACCEPTED AS STATED ABOVE:**

**County of Rio Arriba, New Mexico**

By: \_\_\_\_\_

Title: *RJG/J*  
*Detention Administrator*

Date: \_\_\_\_\_

*9-23-14*

**Southwest Correctional Medical Group, Inc.**

By: \_\_\_\_\_

Title: *KP Hark*  
*Chief Executive Officer*

Date: \_\_\_\_\_

*9/30/14*

**EXHIBIT A: STAFFING PLAN**

<b>Rio Arriba County Detention Center Staffing Plan</b>									
Position	Scheduled Hours							Total Hours	FTEs
	140	MON	TUE	WED	THU	FRI	SAT		
<b>Day Shift</b>									
RN Program Manager/HSA		8.00	8.00	8.00	8.00	8.00		40.00	1.00
Licensed Practical Nurses	8.00	8.00	8.00	8.00	8.00	8.00	8.00	56.00	1.40
Mental Health Professional (Hours may Vary)		8.00			8.00			16.00	0.40
<b>Evening Shift</b>									
Licensed Practical Nurses	8.00	8.00	8.00	8.00	8.00	8.00	8.00	56.00	1.40
<b>Night Shift</b>									
									0.00
<b>Medical and Mental Health Providers</b>									
Site Medical Director / FNP	Tele-medicine visits using high definition video conferencing							6.00	0.15
Psychiatric Nurse Practitioner	HD video telepsych for medication management							4.00	0.10
<b>Totals</b>								<b>178.00</b>	<b>4.45</b>

\* The FNP will be on call 24/7/365

## EXHIBIT B: FEES AND BILLING

SWCMG shall bill COUNTY for services provided under the Agreement as outlined in this Exhibit B. All services will be billed to COUNTY by SWCMG within 30-days following the month in which the costs are incurred by SWCMG, **except for** the monthly management fee and fees for the EMR System, which are to be paid by the COUNTY to SWCMG on or before the 1st day of the month of the month of service, as described in this Exhibit B.

**1. HEALTH CARE SERVICES.** SWCMG shall bill for any costs incurred in arranging for the following services at one hundred percent (100%) of the cost incurred, with no additional markup. References are to the Article and Section of this AGREEMENT.

- 
- 1.3 AMBULANCE SERVICE
  - 1.5 DENTAL
  - 1.8 HOSPITALIZATION
  - 1.11 MEDICAL SUPPLIES/EQUIPMENT OF \$100 OR LESS
  - 1.12 MEDICAL WASTE
  - 1.13 OFFICE SUPPLIES
  - 1.14 PATHOLOGY/RADIOLOGY SERVICES
  - 1.17 SPECIALTY SERVICES

**2. PHARMACEUTICAL SERVICES.** SWCMG shall bill for prescription and OTC pharmaceuticals at Average Wholesale Price (AWP) less 10% for branded pharmaceuticals and AWP less 70% for generic pharmaceuticals. SWCMG will provide to COUNTY a monthly analysis of medications administered, and AWP and price of each medication.

**3. HEALTH CARE STAFF.** SWCMG shall bill for HEALTH CARE STAFF at our full cost, including salary, benefits, taxes and fees; plus ten percent (10%) to cover recruiting, credentialing and other expenses. We will provide the COUNTY a monthly analysis by individual staff member, including hours and costs.

**4. TELE-MEDICINE AND TELE-PSYCHIATRY SERVICES.** SWCMG shall bill for TELE-MEDICINE AND TELE-PSYCHIATRY SERVICES at a rate of one hundred seventy five dollars (\$175) per hour of service. We will provide the COUNTY a monthly analysis, including provider, hours and costs.

**5. ELECTRONIC MEDICAL RECORDS SYSTEM (EMR).** SWCMG shall bill COUNTY two thousand five hundred dollars (\$2,500) per month, with no additional fees. The first monthly amount is to be paid to SWCMG on the 1st day of the month following full implementation and testing of the EMR System. Each monthly payment thereafter is to be paid by the COUNTY to SWCMG on or before the 1st day of the month of the month of service.

**6. MONTHLY MANAGEMENT FEE.** The amount of the monthly management fee is Ten Thousand Dollars (\$10,000), plus applicable gross receipts tax. Each monthly payment shall be pro-rated for any partial months. The first monthly amount is to be paid to SWCMG on the 1st day of November, 2014 for services administered in the month of November, 2014. Each monthly payment thereafter is to be paid by the COUNTY to SWCMG on or before the 1st day of the month of the month of service.

**7. MAXIMUM MONTHLY EXPENSE.** The monthly expense for the items included in paragraphs 3, 4, 5 and 6 above shall not exceed \$67,026 for staffing as outlined in Exhibit A.